

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1903.02
COMPLAINT INVESTIGATOR:	Sandie Scudder
DATE OF COMPLAINT:	April 11, 2002
DATE OF REPORT:	May 22, 2002
REQUEST FOR RECONSIDERATION:	yes/revised June 21, 2002
DATE OF CLOSURE:	August 29, 2002

COMPLAINT ISSUES:

Whether the South Bend Community School Corporation violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written.

511 IAC 7-23-1 by disclosing personally identifiable information about a student with a disability without parental consent.

The complaint investigation report was originally due May 10, 2002. However, due to the unanticipated absence of the investigator due to family illness, the associate superintendent extended the report deadline to May 22, 2002.

FINDINGS OF FACT:

1. The student (Student) is 14 years old, is in the 8th grade, and is eligible for special education and related services as a student with a learning disability.
2. The Complainant alleges that the Student's IEP was not being implemented as written prior to the Student's current placement. Specifically, the parent alleges that accommodations and modifications were not implemented.
3. The IEP dated May 17, 2001, lists accommodations/modifications to be implemented in the Student's educational environment, including extra time on tests, tests read aloud, and use of an assignment notebook/agenda. The CCC Report dated May 17, 2001, states that special conditions include "use CD player in class while working." The Complainant stated that the classroom teacher refused to permit the Student to use a CD player stating it was against school policy. The classroom teacher stated that the Complainant was informed that wearing a CD player was against school policy, but the classroom teacher suggested the use of a personal computer to help the Student. The change in modifications was completed without the benefit of a CCC meeting.
4. The IEP dated May 17, 2001, states that the Student "should utilize his agenda as well as use a daily assignment sheet." One of the short-term objectives included in the May 2001, IEP states: "The Student will keep a daily homework assignment book." The TOS reported that homework assignments were not given in class. The Student used the assignment book only because it contained a hall pass.

5. During the May 17, 2002, teleconference, the TOR stated that staff meetings were held every Friday to ensure that the students' IEPs were being implemented as written and to address problem areas. The TOS received a copy of the Student's IEP at the start of the 2001-2002 school year. The behavior specialist reported that during the 2001-2002 school year, the Student made inconsistent academic progress, and continued to display chronic behavior problems.
6. The Complainant and the Student signed a probation agreement on December 20, 2001, stipulating that the Student "will be in attendance at school on a regular basis and will abide by the rules of the school." The School and the Director of Probation state that at that time, the Complainant was informed that the probation officer would be obtaining reports from the School regarding the Student's attendance and behavior on a regular basis to insure adherence to the probation agreement. On April 24, 2001, the Complainant signed a *Consent to Background Investigation and Release* authorizing the school to "release all records and information as to [the Student]" to the juvenile probation department. There is no expiration for this date.

CONCLUSIONS:

1. Findings of Fact #2, #3, #4, and #5 establish that the Student's IEP required accommodations regarding use of a CD player and an assignment notebook, neither of which was implemented. Therefore, a violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #6 establishes that written consent was not obtained from the Complainant prior to the School disclosing personally identifiable information from the Student's educational record to the probation officer. Therefore, no violation of 511 IAC 7-23-1 is found.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The South Bend Community School Corporation shall:

1. Convene the CCC and determine the accommodations/modifications the Student requires to be successful in the general education classroom, and how these accommodations/modifications will be implemented in the Student's educational environment. The TOR will provide the classroom teacher(s) with a copy of the Student's IEP, including a copy of the accommodations and modifications page. **A copy of the CCC Report/IEP, including the dates the TOR will consult with the TOS regarding the implementation of the accommodations/modifications during the 2002-2003 school year, shall be submitted to the Division no later than June 14, 2002.**
2. Send a written memorandum to all special education personnel stating that accommodations/modifications are to be implemented as written on the IEP, and cannot be altered without a CCC meeting. **A copy of the memorandum shall be submitted to the Division no later than June 5, 2002.**
3. The corrective action originally required in Corrective Action #3 is rescinded.